

Application No. 09/992,639  
Amendment dated December 4, 2003  
Reply to Office Action of September 8, 2003

### **REMARKS**

Claims 1-21 are pending in the application. Claims 7-14 are currently withdrawn from consideration. New Claims 15-21 are added by the current Amendment.

#### **Claim Rejections - 35 U.S.C. §102**

The Examiner rejected Claims 1, 3, 4, and 6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,135,517 (hereinafter "Reale '517"). Applicants have amended Claim 1 for clarification and respectfully submit that Claim 1, as amended, is patentable over the cited art.

Claim 1, as amended, calls for a provisional femoral head comprising a spherical body having a spherical exterior wall and a generally cylindrical internal aperture formed in a distal end of the spherical body, with the cylindrical internal aperture defining a curved interior wall, the spherical body including a cutout spanning the spherical exterior wall and the curved interior wall of the spherical body. Applicants respectfully submit that Reale '517 does not disclose or suggest a provisional femoral head as called for in Independent Claim 1, as amended, and including a cutout spanning a spherical exterior wall and a curved interior wall of a spherical body. Contrary to this claimed arrangement, Reale '517 discloses trial head 30 having cavity 33 with chamfered lead-in surface 31. Chamfered lead-in surface 31 is not a cutout spanning a spherical exterior wall and a curved interior wall of a spherical body as called for in Claim 1, as amended. Reale '517 further discloses rearward opening 32 for accommodation of rear portion 22 of bearing insert 20 as illustrated, e.g., in Figure 2 of Reale '517. Rearward opening 32 of Reale '517 is likewise not a cutout spanning a spherical exterior wall and a curved interior wall of a spherical body as called for in Claim 1, as amended.

Claim 3 depends from Claim 1 and is patentable over the cited art for at least the reasons advanced above with respect to Independent Claim 1. Applicants have cancelled Independent Claim 4, rendering moot 35 U.S.C. §102 rejection of this claim. Claim 6 has been amended to depend from Claim 1 and is allowable therewith.

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### **Allowable Subject Matter**

Applicants appreciate the Examiner's indication of allowable subject matter in dependent Claims 2 and 5. Responsive to this indication, Applicants have rewritten dependent Claims 2 and 5 in independent form to place these claims in condition for allowance. Claim 3 depends from Claim 2 and is allowable therewith.

### **New Claims**

Applicants have added new dependent Claim 15 which depends from Claim 5 and is allowable therewith.

Applicants have also added new Independent Claim 16 as well as Claim 17 depending therefrom. New Independent Claim 16 calls for a provisional femoral head comprising, *inter alia*, a spherical body including a clamp aperture sized to receive a blade end of a clamp. Applicants respectfully submit that such a provisional femoral head including a clamp aperture as called for in new Independent Claim 16 is not disclosed or suggested in the prior art and therefore new Independent Claim 16 and Claim 17 depending therefrom are in condition for allowance.

Applicants have also added new Independent Claim 18 as well as Claim 19 depending therefrom. New Independent Claim 18 calls for a provisional femoral head comprising, *inter alia*, a spherical body having a generally cylindrical internal aperture, the internal aperture having a longitudinal axis; and means for allowing a provisional femoral neck to move radially relative to the longitudinal axis to be positioned in the internal aperture of the spherical body. Applicants respectfully submit that such a provisional head including a means for allowing as called for in new Independent Claim 18 is not disclosed or suggested in the prior art and therefore new Independent Claim 18 and Claim 19 depending therefrom are in condition for allowance.

Finally, Applicants have added new Independent Claim 20 as well as Claim 21 depending therefrom. New Independent Claim 20 calls for a provisional femoral head comprising, *inter alia*, a spherical body having a generally cylindrical internal aperture formed in a distal end of

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the spherical body, the spherical body including a radial cutout radially intersecting the internal aperture relative to the longitudinal axis of the internal aperture, the cutout size whereby a provisional femoral neck can radially traverse the cutout to be positioned within the internal aperture of the spherical body. Applicants respectfully submit that such a provisional femoral head including a radial cutout as called for in new Independent Claim 20 is not disclosed or suggested in the prior art and therefore new Independent Claim 20 and Claim 21 depending therefrom are in condition for allowance.

It is believed that the above represents a complete response to the Office Action and reconsideration is requested. Specifically, Applicants respectfully submit that the current application is in condition for allowance and such action is earnestly solicited.

In the event Applicant has overlooked the need for an extension of time or payment of fee, Applicant hereby petitions therefor and authorizes that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

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If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 219/424-8000.

Respectfully submitted,



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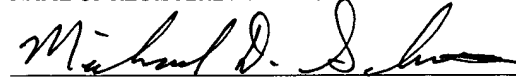
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December 4, 2003  
DATE